

# The Daily Journal

VOL. XVII—NO. 117.

WILMINGTON, N. C., FRIDAY MORNING, FEBRUARY 14, 1868.

WHOLE NUMBER 4,842.

## DAILY JOURNAL.

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## WEEKLY JOURNAL.

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## THE DAILY JOURNAL.

WILMINGTON, N. C.

FRIDAY, FEBRUARY 14, 1868.

From the Raleigh Sentinel.

The "Constitutional Convention."

(So-called.)

Tuesday, Feb. 11, 1868.

The Convention was called to order at 10 o'clock.

Prayer by the Rev. Mr. Lennon, of the Convention.

Mr. Durham wanted to know why armed soldiers were here.

The President said they were here by no authority.

Mr. D. replied that they should leave their arms behind them.

They ought not to be allowed to come in with arms in their hands.

Mr. Bryan said that he was not afraid of the United States soldiers, and if Conservative gentlemen would behave themselves, they would not hurt them.

Mr. Durham said he would tell the gentleman who was not afraid of either him or the soldiers.

The Conservative gentleman on this floor was not of a "sneaky kind."

Mr. Jones, of Washington, moved that a committee of three be appointed, by the Chair, to wait on Gen. Canby.

Agreed to, when the Chair announced the following gentlemen as the committee, viz: Messrs. Jones, of Washington, Head and Grant.

The committee in accordance with Mr. Durham's resolution, yesterday, in relation to black mail, was announced, as follows, viz: Messrs. Durham, Ashley and J. H. Harris, (negro).

Harris (negro) asked to be excused, but the President refused to make any alteration.

Mr. Ray presented a memorial, to be referred to the Select Committee of three, in regard to distribution of grain.

Mr. Franklin, a memorial from Mrs. Todd, of Raleigh, praying for a divorce—referred to the Special Committee, raised some days ago in regard to these matters.

By consent, Harris, of Wake, (negro), introduced the following resolution:

Resolved, That it is a matter of common rumor that President Lincoln, "so-called," from Cleveland, Ohio, has been elected President of a certain official commission of the Freedmen's Bureau, surreptitiously obtained; and whereas, it is the duty of this Convention to secure the election of a President of this body to expel and purge out of this Convention the said President;

Resolved, That a Select Committee of three members be appointed by the President, whose duty it shall be to ascertain and report whether such a corrupting procedure was adopted to secure the election of the said President as a delegate to this Convention, and if so, all the facts connected therewith, to the end that the delegates, "so-called," may be dealt with.

Harris (negro) moved to suspend the rules and consider the resolution.

Some objections were made, when Mr. Durham said he hoped that there would be no suspension.

The rules were then suspended.

Mr. King, of Lenoir, moved to lay it on the table.

Mr. Durham said he wished the resolution to go on record, and if it came from a source that he could assure, he would gladly do it.

Some objections were made, when Mr. King, of Lenoir, moved its indefinite postponement, and called the yeas and nays.

Mr. Heaton favored, of course, the passage of the resolution.

Mr. Durham said that it had been intimated that he introduced his resolution, yesterday, merely to cast reflections upon certain members of the Democratic party. But such intimations were made false. It was a duty he owed to his constituents, as he had been a friend to the bill referred to.

Mr. Heaton asked if Mr. Durham meant to say he spoke falsely.

Mr. D. replied: "I do, if you mean to insinuate anything of the kind against my innocence in introducing my resolution yesterday."

Mr. H. said, "I do not."

"Then," said Mr. Durham, "I do not, in that case, mean to apply offensive language to you."

The ball for the yeas and nays was not sustained.

The House refused to postpone, and the resolution was laid on the table.

Mr. Abbott, of the Committee of Conference with General Canby, reported back

four resolutions, and asked to be discharged from their further consideration.

REPUBLICAN ORDER—JUDICIAL DEPARTMENT.

A report was presented containing three resolutions testing the sense of this Convention in regard to the election of Judges of the Supreme and Superior Courts: 1st, By the people; 2d, By the General Assembly; 3d, Appointment by the Governor, with the consent of the Senate or of the General Assembly.

Mr. Rodman, the Chairman of the Committee, favored the appointment by the Governor, to be confirmed by the Senate. He thought that the popular system would tend to place men of prudence and wisdom upon the bench. He wished to give the people a good, wise and just government, and he relied upon their good sense to ratify our labors. He did not wish to sacrifice good sense and common prudence for the sake of popularity.

Mr. Tourgee was "too good a Republican!" not to favor the election of everything by the people.

Mr. Jones, of Washington, Chairman of the Committee appointed to wait on Gen. Canby, and invited him to visit the House, reported that the General's engagements would prevent his visiting them to-day, but he would accept the invitation for to-morrow, and wished it to be distinctly understood that no speech must be expected of him.

Mr. Jones then proceeded to give his opinions on the subject under consideration. He favored the present system. Our present Judiciary stood among the highest and purest in this country.

Mr. Heaton favored the appointment by the Governor, to be confirmed by the Senate. He thought that as far as they could or should go now. The election system had worked admirably in Ohio, but he did not know that it would do so well here.

Mr. Abbott also favored the appointment by the Governor, and confirmation by the Senate.

Mr. Pool would protest against the election system. He ventured the prediction that if the election system was adopted, and the cry for relief from private contracts should continue, that Mr. McDonald, of Chatham, could beat, to-day, the best legs in the State for a seat upon the bench. While he preferred the present system he would not oppose the 3d resolution, providing for the appointment by the Governor, to be confirmed by the Senate.

Mr. Watts held that neither of the plans were good. It seemed to him that a judicious compromise might be effected. For instance, the appointment by the Governor of the Superior Court Judges, confirmed by the Senate; the Circuit Judges and the Magistrates to be elected by the people.

Mr. Welker said the people of North Carolina were quite well qualified to vote intelligently for the best and wisest officers of great importance. Were the gentlemen, natives of this State, upon this floor prepared to declare that their constituency were not as intelligent and capable as the people of Ohio and other Northern States?

Mr. King, of Lincoln, was opposed to any change in the present system. He had seen that all opposition to the present system came from men not natives of the State, and that, in his opinion, was a strong argument that the present system was good enough. He thought that their strong opposition to it came from the fact that they were aspirants for the honors. He was opposed to any change.

Mr. Kinney said he was a native born citizen of the State, and he was very much in favor of electing all State officers by the people.

Mr. Ing endorsed every word that Mr. Kinney had uttered; he was in favor of electing every officer in the State by the people.

Mr. Conqueston ditto.

Mr. May said he represented a large white constituency and they were, to a man almost, in favor of electing all officers.

Mr. Bryan wished to place himself in the same category.

Mr. Heaton said that Mr. Welker had drawn a wrong inference as to the spirit of his remarks; he did not intend to reflect upon the intelligence and capability of the people of North Carolina, &c.

Hood (negro), had something to say, and said it.

Mr. Trogen came here pledged to vote for the election system, and thought its adoption would do more towards the ratification than anything else.

Mr. Graham, of Orange, hoped the vote upon the subject would not be postponed to-day, and moved to postpone until Friday next, and that it be made the special order for that day.

Mr. Rich opposed the postponement; also Mr. Way, who thought it a waste of time.

The question on postponement was put and voted down.

Galloway (negro), favored election by the people. He said that he would make an assertion, and was personally responsible for it, that the Judiciary in New Hanover was a bastard, born in sin and in secession. In their eyes it was a crime to be a black or loyal man. He said that the Judge of the Criminal Court had given a sentence to the work house, merely to prevent their voting upon the ratification of the Constitution.

Mr. Graham said: As there seems to be a determination on the part of the Convention to force a vote upon this question, to-day, I must enter my protest against such a Radical change in our government. It is not required by the Reconstruction Acts, and I do not believe it demanded by our people. If there is anything in the past history of our State, of which we are justly proud, it is the high character, learning and independence of those who have adorned the bench of the Supreme and Superior Courts. It is needless for me to mention their names. They are known, not only throughout the States of the Union, but in other countries, and I believe our people would see, with many feelings of regret, a system, from which they have derived so many benefits, supplanted by one which, to my mind, does not come well recommended. But it does seem to me, that it is only necessary that a part of our Constitution should be especially dear to our people, to secure its destruction by this Convention.

I will also venture to assert that our present Judges give very general satisfaction, and that there is no just cause for complaint even from colored persons or those who are called loyal men. I fear we shall never again see such men in office, if the appointment of those who are to administer justice is controlled by all the passions and prejudices which have heretofore swayed our elections. But as the matter is pressed at this late hour, without allowing an opportunity for that full and free discussion

which its importance demands, I enter my protest against it.

Mr. Ray would favor the election by the people. Men had been murdered in his county by being condemned without proper evidence.

Mr. Ashley thought the matter ought not to be pressed to-day; time enough had not been given to consider the matter, as it should be.

[Here an effort to adjourn was made, but it failed.]

Mr. A. continued, and in advocacy of the elective system, he cited the example of Chief Justice Taney, who outraged the whole country by his iniquitous decisions. Even death itself would not take him for a long time, and if it had not been for the great love of the Northern people for the Union, they would on his account, have burnt and hanged the bonds that held the Union together. If he was forced to a vote, to-day, he would support the elective system.

Mr. Heaton moved as a substitute for the first resolution the adoption of the last resolution.

Mr. Jones, of Washington, moved to take out the second resolution and make it a substitute for Mr. Heaton's substitute.

Mr. Graham, of Orange, called for the yeas and nays. The call was sustained and the vote stood, yeas 29, nays 74.

The question on Mr. Heaton's amendment was put. The yeas and nays being called, stood yeas 36, nays 64.

The question recurring on the first resolution, Mr. Pool desired a division.

The question then stood: Shall we elect the Supreme Court Judges by the people?

The yeas and nays being called, stood yeas 55, nays 37.

By consent, Mr. Abbott moved to lay the tax bill before Gen. Canby. Carried.

The question recurring upon the second division of the resolution, whether the people should elect Superior Court Judges.—The yeas and nays being called, resulted, yeas 62, nays 15.

On motion, the House then adjourned.

NOTE.—Mr. Heaton, in explanation of his vote, stated that he preferred nominating by the Governor, and confirming by the Senate, but as this was defeated, he supported the elective system.

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## Legal Notices

STATE OF NORTH CAROLINA, NEW HANOVER COUNTY.

Thomas C. McElhenny, Admutor of Estate of Edw. B. Dudley, Position for sale of real estate for said estate.

Andrum B. Burr and wife, and others, vs. JAMES F. LEVY, Plaintiff vs. Defendant.

IT APPEARING THAT JAMES F. LEVY, one of the defendants in this cause, resides beyond the limits of this State; it is therefore ordered that publication be made for six weeks in the Daily Journal, notifying him that he is to appear at the next term of the Court of Pleas and Quarter Sessions to be held for the County of New Hanover, at the Court House in Wilmington, on the second Monday of March, A. D. 1868, and answer the petition, the same will be taken pro confesso, and his property levied on to satisfy the same.

Teste: ROBT. B. WOOD, Jr., Clerk New Hanover County Court. 162-law-61 Jan 29

STATE OF NORTH CAROLINA, NEW HANOVER COUNTY.

Engehard A. Price, Original Attachment.

JAMES F. LEVY, Plaintiff vs. Defendant.

IT APPEARING TO THE COURT THAT THE defendant, James F. Levy, has removed himself from the County of New Hanover, in the process of the law cannot be served on him; it is therefore ordered, that publication be made for six weeks in the Daily Journal, notifying him that, unless he replies the property levied upon by giving a bail bond, and the property levied on will be condemned to satisfy the same.

Teste: ROBT. B. WOOD, Jr., Clerk New Hanover County Court. 162-law-61 Jan 25

STATE OF NORTH CAROLINA, NEW HANOVER COUNTY.

James F. Post, Original Attachment.

JAMES F. LEVY, Plaintiff vs. Defendant.

IT APPEARING TO THE COURT THAT THE defendant, James F. Levy, is an inhabitant of another Government, and cannot be personally served with process; it is therefore ordered, that publication be made for six weeks in the Daily Journal, notifying him that, unless he replies the property levied upon by giving a bail bond, and the property levied on will be condemned to satisfy the same.

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